

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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FALLS LAKE NATION INSURANCE COMPANY,

Docket No.:
1:19-cv-10491-KMW-BCM

Plaintiff,

-against-

~~**PROPOSED JUDGMENT**~~

270 WEST STREET LLC, CAPSTONE
CONTRACTING CORP., FERNHILL
CONSTRUCTION CORP., CHRISTHIAN
OCHOA, and C & R CONSTRUCTION/REN,
INC.,

Defendants.

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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>10/13/20</u>

Plaintiff FALLS LAKE NATIONAL INSURANCE COMPANY ("FALLS LAKE") and
the defendants as indicated, agree as follows:

WHEREAS, FALLS LAKE in this action seeks a declaration as to the denial of coverage to 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Commercial General Liability Policy No. SKP 2000903 10 (the "Policy"), issued by FALLS LAKE to FERNHILL CONSTRUCTION CORP., as to an accident claimed to have occurred on or about February 12, 2018, at 440 Washington Street, New York, New York 10013, and all claims asserted or which could be asserted by OCHOA or any party in that action captioned Christian Ochoa v. 270 West Street, LLC et al, pending in the Supreme Court of the State of New York, County of New York, under Index No.: 159073/2018, as well as the Third-Party Action captioned 270 West Street, LLC v. Capstone Contracting Corp., Fernhill Construction Corp. and

all possible other claims arising from the accident and claims of Ochoa (all together referenced as the “Ochoa Action”); and

WHEREAS, defendants CHRISTHIAN OCHOA, 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., have appeared in this action and have disputed the claims asserted by FALLS LAKE as well as have sought coverage under the Policy for the claims asserted in the Ochoa Action; and

WHEREAS, defendants CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., have now come to an agreement with FALLS LAKE to resolve all issues as between them in this action as to coverage under the Policy for the claims asserted in the Ochoa Action but CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., do not settle and maintain all of the claims asserted in the Ochoa Action; and

WHEREAS CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., agree that there is no coverage for defense or indemnification of 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Policy for any of the claims asserted or could have been asserted against them in the Ochoa Action or any claims arising from or related to the accident asserted in the Ochoa Action, but the parties to the Ochoa Action do not waive or release the claims asserted in the Ochoa Action; and

WHEREAS CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., consent to the entry of

judgment in this action declaring that there is no coverage for defense or indemnification of 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Policy for any of the claims asserted or could have been asserted against them in the Ochoa Action or any claims arising from or related to the accident asserted in the Ochoa Action, but the parties to the Ochoa Action do not waive or release the claims asserted in the Ochoa Action, it is hereby

ORDERED AND ADJUDGED as against 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., that there is no coverage for defense or indemnification of 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Policy for any of the claims asserted or could have been asserted against them in the Ochoa Action or any claims arising from or related to the accident asserted in the Ochoa Action, but the parties to the Ochoa Action do not waive or release the claims asserted in the Ochoa Action.

Dated: ~~September~~ ^{October} 13, 2020

SO ORDERED and ADJUDGED:

Kimba M. Wood

UNITED STATES DISTRICT JUDGE KIMBA M. WOOD

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
-----X

FALLS LAKE NATION INSURANCE COMPANY,

Docket No.:

1:19-cv-10491-KMW-BCM

Plaintiff,

-against-

STIPULATION

270 WEST STREET LLC, CAPSTONE
CONTRACTING CORP., FERNHILL
CONSTRUCTION CORP., CHRISTHIAN
OCHOA, and C & R CONSTRUCTION/REN,
INC.,

Defendants.

-----X

Plaintiff FALLS LAKE NATIONAL INSURANCE COMPANY ("FALLS LAKE") and
the defendants as indicated, agree as follows:

WHEREAS, FALLS LAKE in this action seeks a declaration as to the denial of coverage
to 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL
CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC.,
under the Commercial General Liability Policy No. SKP 2000903 10 (the "Policy"), issued by
FALLS LAKE to FERNHILL CONSTRUCTION CORP., as to an accident claimed to have
occurred on or about February 12, 2018, at 440 Washington Street, New York, New York 10013,
and all claims asserted or which could be asserted by OCHOA or any party in that action captioned
Christian Ochoa v. 270 West Street, LLC et al, pending in the Supreme Court of the State of New
York, County of New York, under Index No.: 159073/2018, as well as the Third-Party Action
captioned 270 West Street, LLC v. Capstone Contracting Corp., Fernhill Construction Corp. and

all possible other claims arising from the accident and claims of Ochoa (all together referenced as the "Ochoa Action"); and

WHEREAS, defendants CHRISTHIAN OCHOA, 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., have appeared in this action and have disputed the claims asserted by FALLS LAKE as well as have sought coverage under the Policy for the claims asserted in the Ochoa Action; and

WHEREAS, defendants CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., have now come to an agreement with FALLS LAKE to resolve all issues as between them in this action as to coverage under the Policy for the claims asserted in the Ochoa Action but CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., do not settle and maintain all of the claims asserted in the Ochoa Action, it is

NOW STIPULATED that CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., agree that there is no coverage for defense or indemnification of 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Policy for any of the claims asserted or could have been asserted against them in the Ochoa Action or any claims arising from or related to the accident asserted in the Ochoa Action, but the parties to the Ochoa Action do not waive or release the claims asserted in the Ochoa Action; and it is further

NOW STIPULATED that CHRISTHIAN OCHOA, 270 WEST STREET LLC, and CAPSTONE CONTRACTING CORP., and C & R CONSTRUCTION/REN, INC., consent to the entry of judgment in this action declaring that there is no coverage for defense or indemnification of 270 WEST STREET LLC, CAPSTONE CONTRACTING CORP., FERNHILL CONSTRUCTION CORP., CHRISTHIAN OCHOA, and C & R CONSTRUCTION/REN, INC., under the Policy for any of the claims asserted or could have been asserted against them in the Ochoa Action or any claims arising from or related to the accident asserted in the Ochoa Action, but the parties to the Ochoa Action do not waive or release the claims asserted in the Ochoa Action.

Dated: September 25, 2020

MIRANDA SLONE SKLARIN
VERVENIOTIS LLP

LIAKAS LAW, P.C.

/s/ Steven Verveniotis

/s/ Anthony Deliso

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